



03 APR 2009

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In re Application of:	:	
CHIN, Po Shin, Francoise, et al.	:	
U.S. Application No.: 10/597,344	:	DECISION ON REFUND
PCT No.: PCT/SG2004/000021	:	REQUEST
International Filing Date: 20 January 2004	:	
Priority Date: None	:	
Atty Docket No.: 9694-000029/US/NP	:	
For: A SYSTEM, A TRANSCEIVER	:	
STRUCTURE FOR USE THEREIN	:	
AND A METHOD OF PROCESSING	:	
SIGNALS IN SUCH A SYSTEM	:	

This decision is issued in response to the request for refund contained in the "Response To Notice Of Missing Requirements" filed 12 August 2008. No petition fee is required.

BACKGROUND

On 20 January 2004, applicants filed international application PCT/SG2004/000021. The international application did not claim an earlier priority date, and it designated the United States. On 28 July 2005, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 July 2006.

On 20 July 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an application data sheet (ADS).

On 19 June 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 12 August 2008, applicants filed the "Response To Notice Of Missing Requirements" considered herein. The response includes payment of the \$130 surcharge for filing the oath or declaration later than thirty months after the priority date and a copy of the PCT Rule 4.17(iv) declaration filed during the international phase of the application. In the submission, applicants argue that, because the executed declaration was filed during the international phase, the \$130

surcharge for submitting the declaration later than thirty months after the priority date was not applicable here. Accordingly, applicants request a refund of the surcharge payment.

On 19 August 2008, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 12 August 2008. On the same date, a filing receipt was issued identifying 12 August 2008 as the date under 35 U.S.C. 371(c). The filing receipt identified the first inventor as Francoise Chin Po Shin.

On 13 February 2009, pursuant to a request from applicants, a corrected filing receipt was issued in which the name of the first inventor was corrected to Po Shin Francoise CHIN, the name listed for this inventor in the published international application, the declaration, and the ADS filed by applicants herein.

DISCUSSION

As indicated on the published international application, an executed declaration of inventorship was filed in the international phase pursuant to PCT Rule 4.17(iv). A review of this declaration, a copy of which was included with applicants' 12 August 2008 submission, confirms that the declaration was in acceptable form.

Pursuant to 37 CFR 1.497(a), a new declaration is not required for the U.S. national stage where, as here, an acceptable declaration was timely submitted in the international application under PCT Rule 4.17(iv). The declaration requirement for the present application was therefore satisfied during the international phase, that is, prior to the expiration of thirty months from the priority date. Under such circumstances, requiring applicants to submit the surcharge for filing the oath or declaration later than thirty months after the priority date is not appropriate. Applicants' request for a refund of this surcharge payment is therefore properly granted.

Based on the filing of the declaration during the international phase, applicants' 20 July 2006 submission initiating the present national stage application (with accompanying basic national fee) completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). The Notification Of Acceptance and filing receipt mailed herein, both of which identified the 35 U.S.C. 371(c) date as 12 August 2008, are therefore appropriately vacated, to be replaced with corrected versions that identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 20 July 2006.

CONCLUSION

Applicants' request for a refund of the \$130 surcharge paid on 12 August 2008 is **GRANTED**.

Deposit Account No. 03-2769 will be credited with a refund of the \$130.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 19 August 2008, which identified the 35 U.S.C. 371(c) date as 12 August 2008, is hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) that identifies the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 20 July 2006.

A handwritten signature in black ink, appearing to read 'rll n', located below the main text block.

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